

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1963 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

STATE OF GUJARAT

Versus

MODERN CONSTRUCTION CO.LTD.

Appearance:

MS SIDDHI TALATI for Petitioner

MR AM KAPADIA for Respondent

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 22/12/1999

ORAL JUDGEMENT

Heard the learned counsel for the parties.

2. This revision application was admitted by this court on 22nd January, 1996 after notice to the respondent. Earlier to that on 11th December, 1995, this

court ordered:

Heard Mr.Mehta for the petitioner. None present
for the respondent. Notice returnable on 22nd
January, 1996. There will be ad-interim relief
in terms of prayer clause 5 (c) until further
orders.

Para - 5 (c) reads as under:

pending hearing and final disposal of this
application to stay the order of issuance of
Jangam warrant passed by the Civil Judge (S.D.)
Surat on 16-3-1995.

3. This jangam warrant issued by the court below is
lying stayed. The dispute has been raised that the
decreetal amount which has been granted by the first
court and modified by this court has been deposited by
the petitioner and that has also been withdrawn by the
decree holder - respondent still the decree holder -
respondent prays for grant of interest on that amount in
execution.

4. This is a question of fact on which it is
appropriate that first executing court decides the same.
Moreover, this jangam warrant is lying stayed for all
these years and it is in the larger interest of the
parties that this matter may be decided first by the
court below.

5. In the result, this civil revision application is
allowed and the order impugned in this civil revision
application is quashed and set aside and the matter is
remanded back to the Executing court to decide this
dispute after hearing the counsel for the parties within
a period of two months from the date of receipt of writ
of this order. Rule is made absolute in the aforesaid
terms with no order as to costs.

zgs/-